



INTERIOR BOARD OF INDIAN APPEALS

Miami Tribe of Oklahoma v. Muskogee Area Director, Bureau of Indian Affairs

27 IBIA 123 (01/10/1995)

Reconsideration denied:
27 IBIA 153



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

MIAMI TRIBE OF OKLAHOMA,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 94-180-A
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 10, 1995

This is an appeal from a July 28, 1994, decision of the Muskogee Area Director, Bureau of Indian Affairs, declining to acquire a 0.50-acre tract of land in Bowie County, Texas, in trust for the Miami Tribe of Oklahoma.

Appellant's notice of appeal alleged that the Area Director's decision "is contrary to law, is arbitrary and capricious, is without substantial factual or legal basis, is an abuse of discretion, and violates the due process and equal protection rights of the Miami Tribe of Oklahoma" (Notice of Appeal at 2). The notice of appeal did not offer any support for these allegations.

Appellant was advised in the notice of docketing for this appeal that it had the right to file a brief and that it bore the burden of proving error in the Area Director's decision. Appellant did not file a brief.

In appeals arising under 25 CFR Part 2, as this appeal does, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. See, e.g., D & K Farms v. Anadarko Area Director, 25 IBIA 157 (1994). Appellant's general and unsupported allegations are insufficient to show error in the Area Director's decision. Appellant has failed to carry its burden of proof.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4. 1, the Area Director's July 28, 1994, decision is affirmed.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge